



# Immigration Act 2014

## 2014 CHAPTER 22

### PART 1

#### REMOVAL AND OTHER POWERS

##### *Detention and bail*

#### **5 Restrictions on detention of unaccompanied children**

- (1) Schedule 2 to the Immigration Act 1971 (administrative provisions as to control on entry etc) is amended as follows.
- (2) In paragraph 16, after paragraph (2) insert—

“(2A) But the detention of an unaccompanied child under sub-paragraph (2) is subject to paragraph 18B.”
- (3) In paragraph 18, after sub-paragraph (1) insert—

“(1A) But the detention of an unaccompanied child under paragraph 16(2) is subject to paragraph 18B.”
- (4) After paragraph 18A (as inserted by paragraph 2 of Schedule 1) insert—

“18B (1) Where a person detained under paragraph 16(2) is an unaccompanied child, the only place where the child may be detained is a short-term holding facility, except where—

  - (a) the child is being transferred to or from a short-term holding facility, or
  - (b) sub-paragraph (3) of paragraph 18 applies.

(2) An unaccompanied child may be detained under paragraph 16(2) in a short-term holding facility for a maximum period of 24 hours, and only for so long as the following two conditions are met.

(3) The first condition is that—

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- (a) directions are in force that require the child to be removed from the short-term holding facility within the relevant 24 hour period, or
  - (b) a decision on whether or not to give directions is likely to result in such directions.
- (4) The second condition is that the immigration officer under whose authority the child is being detained reasonably believes that the child will be removed from the short-term holding facility within the relevant 24 hour period in accordance with those directions.
- (5) An unaccompanied child detained under paragraph 16(2) who has been removed from a short-term holding facility and detained elsewhere may be detained again in a short-term holding facility but only if, and for as long as, the relevant 24 hour period has not ended.
- (6) An unaccompanied child who has been released following detention under paragraph 16(2) may be detained again in a short-term holding facility in accordance with this paragraph.
- (7) In this paragraph—
- “relevant 24 hour period”, in relation to the detention of a child in a short-term holding facility, means the period of 24 hours starting when the child was detained (or, in a case falling within sub-paragraph (5), first detained) in a short-term holding facility;
  - “short-term holding facility” has the same meaning as in Part 8 of the Immigration and Asylum Act 1999;
  - “unaccompanied child” means a person—
    - (a) who is under the age of 18, and
    - (b) who is not accompanied (whilst in detention) by his or her parent or another individual who has care of him or her.”

## 6 Pre-departure accommodation for families

- (1) Part 8 of the Immigration and Asylum Act 1999 (removal centres and detained persons) is amended as follows.
- (2) In section 147 (interpretation)—
- (a) after the definition of “custodial functions” insert—
    - ““detained children” means detained persons who are under the age of 18;”;
  - (b) after the definition of “escort monitor” insert—
    - ““pre-departure accommodation” means a place used solely for the detention of detained children and their families for a period of—
      - (a) not more than 72 hours, or
      - (b) not more than seven days in cases where the longer period of detention is authorised personally by a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975);”;
  - (c) in the definition of “removal centre”, after “facility,” insert “pre-departure accommodation;”;
  - (d) in the definition of “short-term holding facility”, at the end insert—
    - “but which is not pre-departure accommodation.”

- (3) In section 155 (custodial functions and discipline), in subsection (2), at the end insert “and in pre-departure accommodation”.
- (4) After section 157 insert—

#### **“157A Pre-departure accommodation**

- (1) The following provisions of this Part apply to pre-departure accommodation as they apply to removal centres—
  - (a) section 149 (contracting out of certain removal centres);
  - (b) section 150 (contracting out functions at directly managed removal centres);
  - (c) section 151 (intervention by Secretary of State).
- (2) In the application of those provisions to pre-departure accommodation—
  - (a) references to a removal centre contract are to be read as a contract made under section 149(1) for the provision or running of pre-departure accommodation;
  - (b) references to a contracted out removal centre are to be read as references to pre-departure accommodation in relation to which a contract under section 149(1) is in force;
  - (c) references to a directly managed removal centre are to be read as references to pre-departure accommodation in relation to which there is no contract under section 149(1) in force;
  - (d) references to removal centre rules are to be read as references to rules made under subsection (4).
- (3) The Secretary of State may by regulations extend to pre-departure accommodation any other provision made by or under this Part in relation to removal centres.
- (4) The Secretary of State may make rules for the regulation and management of pre-departure accommodation.”

### **7 Immigration bail: repeat applications and effect of removal directions**

- (1) Schedule 2 to the Immigration Act 1971 (administrative provisions as to control on entry etc) is amended as follows.
- (2) In paragraph 22 (bail) at the end insert—
  - “(4) A person must not be released on bail in accordance with this paragraph without the consent of the Secretary of State if—
    - (a) directions for the removal of the person from the United Kingdom are for the time being in force, and
    - (b) the directions require the person to be removed from the United Kingdom within the period of 14 days starting with the date of the decision on whether the person should be released on bail.”
- (3) In paragraph 25—
  - (a) the existing paragraph is re-numbered as sub-paragraph (1);
  - (b) in that sub-paragraph, for “may” substitute “must”;

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(c) after that sub-paragraph insert—

“(2) Tribunal Procedure Rules must secure that, where the First-tier Tribunal has decided not to release a person on bail under paragraph 22, the Tribunal is required to dismiss without a hearing any further application by the person for release on bail (whether under paragraph 22 or otherwise) that is made during the period of 28 days starting with the date of the Tribunal’s decision, unless the person demonstrates to the Tribunal that there has been a material change in circumstances.”

(4) In paragraph 29 (grant of bail pending appeal), in sub-paragraph (1), at the end insert “(and paragraph 22 does not apply)”.

(5) In paragraph 30 (restrictions on grant of bail pending appeal), in sub-paragraph (1)—

(a) after “if” insert “— (a)”;

(b) for “or the power to give such directions is for the time being exercisable” substitute “and

(b) the directions require the person to be removed from the United Kingdom within the period of 14 days starting with the date of the decision on whether the person should be released on bail.”

(6) After paragraph 33, insert—

“33A (1) Tribunal Procedure Rules must make provision with respect to applications to the First-tier Tribunal under paragraphs 29 to 33 and matters arising out of such applications.

(2) Tribunal Procedure Rules must secure that, where the First-tier Tribunal has decided not to release a person on bail under paragraph 29, the Tribunal is required to dismiss without a hearing any further application by the person for release on bail (whether under paragraph 29 or otherwise) that is made during the period of 28 days starting with the date of the Tribunal’s decision, unless the person demonstrates to the Tribunal that there has been a material change in circumstances.”